

IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

STACEY BRAY, as Independent
Administrator of the Estate of SUNNY
LYNN SWANSON, Deceased,

Plaintiff,

v.

PATROLMAN JAMES M. HUBER,
PATROLMAN RONALD FUNK,
PATROLMAN WAYNE KEYS,
PATROMAN CHISTOPHER FOPPE,
LIEUTENANT DOUG JONES,
SERGEANT JAMES DAHM, and CITY OF
BELLEVILLE, ILLINOIS, a municipal
corporation,

Defendants.

Case No. 3:10-cv-807-JPG-SCW

ORDER

This matter comes before the Court on Plaintiff's Motion to Dismiss (Doc. 23). Plaintiff moves to dismiss with prejudice counts I, II, III, IV, V, VII, VIII, IX, and XI, essentially all claims except counts VI and X. The plaintiff and defendants reached a settlement on August 25, 2011 and are currently in the settlement process with the Twentieth Judicial Circuit for the State of Illinois. The plaintiff currently seeks dismissal of all counts pending against individual defendants, thus maintaining only two counts against the City of Belleville until the settlement process is complete at which time the remaining counts will be dismissed.

As the defendants answered (Doc. 10) the amended complaint (Doc. 5), the Court construes the plaintiff's motion to be made under Federal Rule of Civil Procedure 41(a)(2). Rule 41(a)(2) provides that only the Court may dismiss an action after an adverse party has filed an

answer or motion for summary judgment and in the absence of a stipulation of dismissal of an entire case from all the parties.

The Court **GRANTS** the plaintiff's Motion to Dismiss (Doc. 23) and hereby **DISMISSES with prejudice** Counts I, II, III, IV, V, VII, VIII, IX, and XI with the parties to bear their own costs of the suit. The Court **DIRECTS** the Clerk of the Court to enter judgment accordingly at the conclusion of the case.

IT IS SO ORDERED.

DATED: November 22, 2011

s./ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE